

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

In Re:) Waive 30 Days
Richard Werges, and Deborah Werges, *Debtor*) Case No. 10-48143-705
Beneficial Mortgage Co. of Missouri, Inc., by HSBC)
Finance Corporation, loan servicing agent for *Creditor*) Chapter: 7
vs.)
Richard Werges, and Deborah Werges, *Debtor*) MOTION FOR RELIEF FROM
and) STAY
Tracy A. Brown, *Trustee*) Filed By: Beneficial Mortgage
Original Hearing Date:) Co. of Missouri, Inc.
October 20, 2010
Original Hearing Time:
9:30 AM
Steven L. Crouch, #2903
Daniel A. West, #98415
6363 College Blvd., Ste 100
Overland Park, KS 66211

MOTION FOR RELIEF FROM THE AUTOMATIC STAY
COMBINED WITH NOTICE OF HEARING

WARNING: ANY RESPONSE OR OBJECTION MUST BE FILED WITH THE COURT BY OCTOBER 13, 2010 (SEE L.B.R. 9013-1B). A COPY MUST BE PROMPTLY SERVED UPON THE UNDERSIGNED. FAILURE TO FILE A TIMELY RESPONSE MAY RESULT IN THE COURT GRANTING THE RELIEF REQUESTED PRIOR TO THE HEARING DATE. THE HEARING TO BE HELD ON THE DATE AND TIME ABOVE BEFORE THE HONORABLE JUDGE CHARLES E. RENDLEN III, IN THE UNITED STATES BANKRUPTCY COURT, EASTERN DISTRICT OF MISSOURI, 111 SOUTH 10TH STREET, 5 NORTH, ST. LOUIS, MO.

Beneficial Mortgage Co. of Missouri, Inc., its successors or assigns, ("Creditor"), and in support of its motion, states as follows:

1. Creditor files this motion under Rules 4001 and 9014, Rules of Bankruptcy Procedure. On July 21, 2010, the Debtor filed a Petition for Adjustment of Debts under Chapter 7 of the Bankruptcy Code wherein Creditor was listed as a secured creditor as to real property of the Debtor.

2. Jurisdiction is invoked in the District Court under 28 U.S.C. §1334(a) and 28 U.S.C. §1471(a) and jurisdiction is proper in this Court pursuant to 28 U.S.C. §1408(1) and §157(b)(2)(G).

3. Richard Werges, and Deborah Werges ("Debtor", whether one or more) reside at 156 Highway B, Montgomery City, MO 63361.

4. Tracy A. Brown is the Trustee duly appointed by law ("Trustee").

5. On January 13, 2003, the Debtors executed a promissory note (the "Note") in the principal sum of \$145,262.23.

6. Contemporaneously with the execution of the Note, a Deed of Trust was executed to secure repayment of the Note.

7. The Deed of Trust was filed for record with the Office of the Register of Deeds of Montgomery County, Missouri, on January 16, 2003, in Book No. 478, at Page 647. A copy of the Deed of Trust is available upon request and incorporated by reference as though fully set forth herein and identified as Exhibit "A".

8. The Deed of Trust encumbers the property legally described as follows:

The following described real estate lying, being, and situate in the county of Montgomery, State of Missouri, to-wit:

A 6.69 acres tract of land being part of the South half of the Southeast Quarter of Section 26, Township 49 North, Range 6 West, and being more particularly described as follows: Beginning at the Southwest corner of the Southeast Quarter of the Southeast Quarter of said section 26, thence with the South line of said Section 26, North 89 degrees 08' West, 196.40 feet to a point, thence North 0 degrees 52' East, 1211.6 feet to a point in the South right of way line of Missouri State Highway B, thence with said right of way line North 88 degrees 20' East, 75.06 feet to a point, thence departing said right of way line, South 0 degrees 52' East, 499.12 feet to a point, thence North 78 degrees 14' East 257.66 feet to a point, thence South 1 degree 40' East, 772.91 feet to a point in the South line of said Section 26, thence with said South line, North 89 degrees 08' West, 164.18 feet to the point of beginning. Grantor reserve and except therefrom to themselves, their heirs and assigns a 25 foot wide easement parallel to and contiguous with the entire West side of said tract, and a 75 foot wide easement parallel to and contiguous with the entire South side of said tract for ingress and egress for their remaining land, subject however to but excepting and reserving therefrom to the grantors their heirs and assigns and easement 7.5 feet on both sides of the sewer

line as now located on said premises for the purposes of maintaining, installing, repairing, and replacing sewerline as now located thereon subject to covenants of record in book 257, page 439. , commonly known as 156 Highway B, Montgomery City, MO 63361 (the "Property")

9. Creditor is entitled to enforce the Note and Deed of Trust.
10. Creditor does not have an independent estimate of the value of the property, but notes that it is appraised for tax purposes by the county at \$169,500.00.
11. The Debtor has claimed the Property as exempt under 11 U.S.C. §522.
12. The approximate balance due on the Promissory Note is in the amount of \$96,910.48, an exact payoff is available upon request of an appropriate party.
13. The Debtor has failed to pay the payments due on the promissory note held by the Creditor. The following amounts are now due and owing:

DESCRIPTION	AMOUNT
(9) Late Payments @ \$1,647.05 (01/17/10 – 09/17/10)	\$14,823.45
Pre-Petition NSF Fees	\$75.00
MFR Filing Fee	\$150.00
MFR Attorney Fees	\$275.00
Total	\$15,323.45

14. These amounts due and owing are in addition to any amounts that have come due after the filing of this Motion pursuant to the terms of the Promissory Note and Security Instrument.

15. The Debtor has failed to cure the delinquency and the estate lacks sufficient assets from which the delinquency can be cured. The Debtor has materially defaulted with respect to payment of Creditor's secured claim and has caused unreasonable delay, which is prejudicial to this creditor.

16. To remedy this prejudicial delay to creditor, an Order for Relief from the Automatic Stay should be granted that is effective immediately without a stay of enforcement pursuant to Federal Rule of Bankruptcy Procedure 4001(a)(3).

WHEREFORE, Creditor, its successors or assigns, prays that it be granted Relief from the Automatic Stay of 11 U.S.C. §362 to enforce its lien granted in the Mortgage and for such other and further relief, as the Court deems proper.

SOUTH & ASSOCIATES, P.C.

/s/Daniel A. West

Steven L. Crouch, (MBE #37783; EDMO #2903; KSFd #70244)
Daniel A. West (MBE #48812; EDMO #98415; KSFd #70587)
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ATTORNEYS FOR CREDITOR

CERTIFICATE OF MAILING/SERVICE

I certify that a true copy of the Attached Pleading was served either electronically or via first class mail on September 20, 2010 upon the following parties:

Richard & Deborah Werges
156 Highway B
Montgomery City, MO 63361
DEBTOR

Douglas M. Heagler
Law Office
6302 N. Rosebury, Ste 1W
Clayton, MO 63105
ATTORNEY FOR DEBTOR

Tracy A. Brown
1034 S. Brentwood Blvd., #1830
St. Louis, MO 63117
TRUSTEE

Office of the United States Trustee
111 South 10th Street, Suite 6353
St. Louis, MO 63102
U.S. TRUSTEE

/s/Daniel A. West

Steven L. Crouch
Daniel A. West
ATTORNEYS FOR CREDITOR